

CLM  
D/P

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

X

THOMAS M. LONGI and DIANNE H. LONGI,

Plaintiffs,

-against-

THE STATE OF NEW YORK, et al.

Defendants.

X  
**ORDER**  
**CV-02-5821 (SDF)(JO)**

FEUERSTEIN, J.

On November 1, 2002, *pro se* plaintiffs Thomas Longi (Thomas) and Dianne Longi (Dianne) (collectively, plaintiffs) commenced this action pursuant to, *inter alia*, 42 U.S.C. § 1983 against numerous defendants, alleging violations of (1) their Fifth and Fourteenth Amendment rights; (2) 18 U.S.C. Chapter I, §§ 2, 3, 4; (3) the "Intellectual Property Act"; (4) the Privacy Act of 1974; (5) the "Corrupt Practices Act"; (6) the Truth in Lending Act (TILA); (7) the "Fair Collections Practices Act"; and (8) the Freedom of Information Act of 1966 (FOIA). By order dated December 9, 2002, plaintiffs' application to proceed in forma pauperis in the action was granted.

By order dated June 26, 2006, I dismissed the case as against certain of the named defendants, dismissed certain of plaintiffs' claims against the remaining defendants, and otherwise denied dismissal of plaintiffs' claims as against the remaining defendants pursuant to Rules 12(b)(6) and/or 12(c) of the Federal Rules of Civil Procedure. The trial of the remaining claims was subsequently scheduled to commence on or about December 6, 2006, but was

adjourned, *inter alia*, to afford the remaining defendants the opportunity to settle the remaining claims and/or to move for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Pending before the Court is plaintiffs' motion pursuant to Rule 24 of the Federal Rules of Appellate Procedure for leave to appeal the order adjourning the trial, and "all decisions leading up to, and ultimately made by the Court on December 6, 2006," (Plaintiffs' Motion, p. 1), in forma pauperis. For the reasons set forth herein, the motion is denied.

Rule 24(a)(3) of the Federal Rules of Appellate Procedure (Rule 24) provides, in

pertinent part:

A party who was permitted to proceed in forma pauperis in the district-court action, \* \* \*, may proceed on appeal in forma pauperis without further authorization, unless: (A) the district court— before or after the notice of appeal is filed— certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding \* \* \*.

Pursuant to 28 U.S.C. § 1915(a)(3), the statute governing requests to proceed in forma pauperis, an appeal may not be taken in forma pauperis "if the trial court certifies in writing that it is not taken in good faith." The standard for determining whether the appeal is taken in good faith is an objective one. See United States v. Yu, No. 90 CR. 47-6, 2007 WL 62789, at \* 2 (S.D.N.Y. Jan. 8, 2007).

It is hereby certified that any appeal of this Court's order adjourning the trial and all decisions leading up thereto would be frivolous and, therefore, cannot objectively be taken in

good faith. Accordingly, plaintiffs' motion for leave to proceed in forma pauperis on the appeal of that order is denied.

SO ORDERED.

*Sandra J. Feuerstein*  
SANDRA J. FEUERSTEIN  
United States District Judge

Dated: July 31, 2007